



**UNITED STATES DEPARTMENT OF COMMERCE
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HC

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/061,017	04/15/98	BAKER	S 42390.P5326

LM02/0605
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EXAMINER
VINCENT, D

ART UNIT PAPER NUMBER

2732

14

DATE MAILED: 06/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

The reply brief filed 5/24/00 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Regarding the appellant's remarks pertaining to the Examiner's Official Notice that "...the term burst is notoriously well known and is used when dealing with variable bit rate (VBR) traffic" (paper no. 5, pages 4-5), A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution (MPEP § 2144.03). Thus, it is the Examiner's position that simply stating "Applicant specifically traverses the Examiner's characterization of the term bursts" (paper no. 6, page 3) did not amount to actually traversing the Official Notice itself and certainly was not equivalent to a demand for evidence. Furthermore, there was no mention of this argument in the Appellant's Brief.

**DAVID R. VINCENT
PATENT EXAMINER**

David Vincent 5/31/00